

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CGY GREENWICH I LLC,	:	Civil Action No: 16-cv-4637
Plaintiff,	:	Removed from Supreme Court of the
- against -	:	State of New York, New York
	:	County
NOBLE AMERICAS GAS & POWER CORP.,	:	Index No. 654493/2015
Defendant.	:	
	:	
	:	

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant, Noble Americas Gas & Power Corp. (“Noble”), by and through its undersigned counsel, hereby removes the above-captioned civil action, and all claims and causes of action therein, from the Supreme Court of the State of New York, County of New York, to the United States District Court for the Southern District of New York. In support of this Notice, Noble respectfully states as follows:

1. Pursuant to 28 U.S.C. § 1332, this Court has subject matter jurisdiction over the action currently pending in the Supreme Court of the State of New York, County of New York, because there is diversity of citizenship among the necessary and properly named parties and the amount in controversy exceeds \$75,000.00. This action is therefore removable to this Court pursuant to 28 U.S.C. § 1441.

2. On December 31, 2015, Plaintiff, CGY Greenwich I LLC (“CGY”), filed a civil action in the Supreme Court of the State of New York, County of New York, seeking a

declaratory judgment that there was no enforceable agreement regarding Noble's purchase of New Jersey Solar Renewable Energy Certificates from CGY (the "Complaint"). (Compl., ¶ 1.)¹

3. Noble was served with the Complaint on January 5, 2016.²

4. Noble filed its Verified Answer to the Complaint on April 21, 2016.³

5. The amount in controversy is the value of the disputed agreement regarding Noble's purchase of New Jersey Solar Renewable Energy Certificates from CGY, which exceeds \$9.5 million. (Compl., Ex A.)

6. Noble is a corporation organized under the laws of the state of Delaware with a principal place of business located at Four Stamford Plaza, 107 Elm Street, 7th Floor, Stamford, Connecticut 06902.

7. CGY is a limited liability company and CGY did not plead the citizenship of its members in the Complaint. (Compl., ¶ 2.)

8. Therefore, the Complaint does not include information sufficient to determine CGY's citizenship and to determine if there was diversity of citizenship sufficient to give rise to diversity jurisdiction under 28 U.S.C. § 1332.

9. To determine CGY's citizenship, on May 4, 2016, Noble requested that CGY identify the state(s) of citizenship of its members. (Liston Decl., ¶ 4.)⁴

¹ A true and correct copy of the Summons and Verified Complaint, dated December 31, 2015, is attached hereto as Exhibit A.

² A true and correct copy of the Affidavit of Service, dated January 5, 2016, is attached hereto as Exhibit B.

³ A true and correct copy of the Verified Answer to the Complaint, dated April 21, 2016, is attached hereto as Exhibit C.

⁴ "Liston Decl." refers to the Declaration of David G. Liston, dated June 19, 2016, which is attached hereto as Exhibit D.

10. On May 11, 2016, CGY refused to voluntarily provide this requested information. (Liston Decl., ¶ 5.)

11. Since CGY would not voluntarily disclose this information, on May 12, 2016, Noble served CGY with Noble's First Set of Interrogatories, which contained one interrogatory requesting that CGY identify its members, and as applicable, each of its member's place of domicile, citizenship, place of incorporation, and/or principal place of business. (Liston Decl., Ex. 1.)

12. After initially objecting to Noble's Interrogatories, on June 14, 2016, CGY provided an amended response, which states that CGY has one corporate member, Conergy Projects, Inc., which is a corporation organized under the laws of the state of California, with its principal place of business located in Florida. (Liston Decl., Ex. 3.)

13. There is diversity of citizenship between CGY, which is a citizen of California and Florida, and Noble, which is a citizen of Delaware and Connecticut.

14. This action is therefore removable to this Court pursuant to 28 U.S.C. § 1441.

15. It was not until, June 14, 2016, when CGY served its amended response to Noble's Interrogatories, that Noble was able to ascertain that there was diversity of citizenship and that this action was removable to this Court.

16. This Notice of Removal is therefore timely under 28 U.S.C. § 1446.

17. Pursuant to 28 U.S.C. § 1446(d), Noble will file a copy of this Notice of Removal with the Supreme Court of the State of New York, County of New York, and will thereby notify

the Clerk of that court of the removal. Noble will also deliver to CGY a copy of this Notice of Removal in accordance with to 28 U.S.C. § 1446(d).

WHEREFORE, this action is hereby removed to this Court from the Supreme Court of the State of New York, County of New York.

Dated: June 19, 2016
New York, New York

Respectfully submitted,

LEWIS BAACH PLLC

By: 

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